

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND (PROVIDENCE)**

IN RE:

Christine Ann Kaine and Thomas Kaine,
Debtors

Wells Fargo Bank, N.A.,

VS.

Christine Ann Kaine and Thomas Kaine,

CHAPTER 13
CASE NO. 20-11131-DF

**AMENDED MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT
THEREOF**

To the Honorable Diane Finkle:

Wells Fargo Bank, N.A., your moving party in the within Motion, hereby requests that the Court grant relief from the Automatic Stay imposed by 11 U.S.C. §362 and respectfully represents:

1. The movant has a mailing address of Wells Fargo Bank, N.A., Attention: Bankruptcy Department, MAC N9286-01Y Default Document Processing, P.O. Box 1629, Minneapolis, MN 55440-9790.
2. The debtor has a mailing address of 20 Dunham Ave, Cranston, RI 02905 f/k/a 18 Dunham Ave., Cranston, RI 02905.
3. On October 27, 2020, the debtor filed a petition under Chapter 13 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The Chapter 13 plan was confirmed on January 25, 2021.
5. The movant is the holder of a second mortgage on real estate in the original amount of \$120,000.00 given by Thomas A. Kaine and Christine A. Kaine to Wachovia Bank, National Association on or about March 21, 2007. Said mortgage is recorded with the Records of Land Evidence in the City of Cranston at Book 3638, Page 76 and covering the premises located at 20 Dunham Ave, Cranston, RI 02905 f/k/a 18 Dunham Ave., Cranston, RI 02905.

6. Said mortgage secures a note given by Thomas A. Kaine and Christine A. Kaine to Wachovia Bank, National Association in the original amount of \$120,000.00. Wells Fargo Bank, N.A., services the loan on the property referenced in this motion for relief on behalf of Wells Fargo Bank, N.A.. Debtor executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly endorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

7. There is no other collateral securing the obligation.

8. Wells Fargo Bank, N.A. is the current holder of the mortgage, which has not been assigned. A copy of the mortgage, note and merger letter is annexed hereto and marked as Exhibit 'A'.

9. As of May 10, 2022, approximately \$86,772.25 in principal, interest, late fees and other charges was due with regard to Wells Fargo Bank, N.A.'s note and mortgage.

10. According to the Chapter 13 Plan, the subject property is being retained.

11. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
Movant	Second Mortgage	\$86,772.25
U.S. Bank, N.A.	First Mortgage	\$79,851.71

Total Secured Encumbrances: \$166,623.96

12. The pre-petition arrearage is \$40,046.00, as of petition filing date.

13. According to the debtor's schedules, the fair market value of the subject property is \$231,100.00.

14. The debtor failed to remain current with the post-petition payments to Wells Fargo Bank, N.A.

15. The last post-petition payment received by the movant was a payment in the amount of \$2,002.30, received on or about April 28, 2022, and was applied to the December 20, 2021 and January 20, 2022 post-petition payments.

16. The total post-petition arrearage due as of May 10, 2022 is \$2,924.36.

17. The total post-petition arrearage through the anticipated hearing on this motion would also include any additional monthly mortgage payments in the amount of \$1,001.15, which payments are due on the twentieth of every month.

18. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief as follows:

- I. Pursuant to 11 U.S.C. §362 (d)(1) for cause on the basis that the debtor has not made timely post-petition payments, and that the debtor has failed to provide the plaintiff with adequate protection;

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the stay for the purpose of: (i) exercising its rights under its agreements with the debtor and any co-debtors under applicable law; and (ii) that the Court order such other and further relief as may be just and proper.

If the debtor has been negatively impacted by COVID-19, the debtor may contact Wells Fargo Home Mortgage to discuss a personalized solution at 1-800-274-7025. Written attorney consent may be required to speak directly with the debtor about these options.

Respectfully submitted,
Wells Fargo Bank, N.A.,
By its Attorney

/s/ Joseph Dolben

Joseph Dolben
RI Bar Number 7916
Harmon Law Offices, P.C.
PO Box 610389
Newton Highlands, MA 02461
(617)558-0500
ribk@harmonlaw.com

Dated: 5/16/2022

Within fourteen (14) days after service, if served electronically, as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if served by mail or other excepted means specified, any party against whom such paper has been served, or any other party who objects to the relief sought, shall serve and file an objection or other appropriate response to said paper with the Bankruptcy Court Clerk's Office, 380 Westminster Street, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise

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CERTIFICATE OF SERVICE

I, Joseph Dolben, state that on 5/16/2022, I electronically filed the foregoing document with the United States Bankruptcy Court for the District of Rhode Island on behalf of Wells Fargo Bank, N.A. using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Jack Pitts
Derek A Castello
John Boyajian
Gary L. Donahue

I certify that I have mailed by first class mail, postage prepaid, the documents electronically filed with the Court on the following non CM/ECF participants:

Thomas A. Kaine
20 Dunham Ave
Cranston, RI 02905

Christine Ann Kaine
20 Dunham Ave
Cranston, RI 02905

U.S. Bank, N.A.
1 Mortgage Way
Mount Laurel, NJ 08054

Respectfully submitted,

Wells Fargo Bank, N.A.,
By its Attorney

/s/ Joseph Dolben

Joseph Dolben
RI Bar Number 7916
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PO Box 610389
Newton Highlands, MA 02461
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Dated: May 16, 2022